

A.C.O.T.S.

IBLA 81-855, 81-856,
81-857, 81-858,
81-886 Decided February 22, 1982

Appeals from decisions of the Medford District Manager, Bureau of Land Management, to offer timber tracts for sale.

Affirmed.

1. Timber Sales and Disposals

A BLM decision to proceed with a proposed timber sale, when reached after consideration of all the relevant factors and supported by the record, will not be disturbed absent a showing the decision is clearly erroneous.

APPEARANCES: Christopher Bratt, Chairman, Applegate Citizens Opposed to Toxic Sprays; Wayne A. Boden, Acting District Manager, Medford District Office, Bureau of Land Management; Hugh R. Shera, District Manager, Bureau of Land Management; Southern Oregon Timber Industries Association, pro se; Charles F. Adams, Esq., Portland, Oregon, for Boise Cascade Corporation; Suntip Company, pro se; Superior Timber Company, pro se; North West Timber Association, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Applegate Citizens Opposed to Toxic Sprays (A.C.O.T.S.) appeals the denial of its protests against the Bureau of Land Management (BLM) decision to offer various timber tracts for sale. 1/ The timber sales were conducted by the Medford District Office of BLM, whose District Manager issued the several decisions denying appellant's protests. Pursuant to 43 CFR 4.21, award of contracts to the high bidders in each sale has been withheld pending

<u>1/ IBLA Docket</u>		<u>Date of Tract</u>	<u>Date of BLM decision</u>
<u>Number</u>	<u>Tract</u>	<u>Offering</u>	<u>Denying Protest</u>
81-855	81-2	Mar. 27, 1981	June 8, 1981
81-856	81-26	Apr. 30, 1981	June 3, 1981
81-857	81-38	Mar. 27, 1981	undated
81-858	GA-4	Apr. 30, 1981	June 3, 1981
81-886	81-23	May 28, 1981	June 24, 1981

disposition of these appeals, which we have consolidated sua sponte. Several intervenors also appear in this case. 2/

The grounds for protest and the reasons for appeal from the decisions denying the protest of the several timber sales are both numerous and quite general in their terms, but they may be summarized as follows. Appellant objects to the management of the lands involved for timber production as opposed to other uses and alleges that this is violative of the concept of multiple use. Appellant asserts that the BLM policy of intensive forest management as applied to the lands is inconsistent with the principle of sustained yield. Soil types in the timber sale units are alleged to be low in productivity and not conducive to successful regeneration. Appellant objects to the damage to other resources, including watershed and wildlife, which will result from timber harvest.

The record contains an environmental assessment prepared for each of the timber sales involved which contains an analysis of the environment of the sale area, the anticipated impacts of the proposed action, and possible mitigating measures. Each of the environmental assessments for the individual timber sales is cross-referenced to the relevant final environmental impact statement, either that for the Jackson and Klamath Sustained Yield Units, Ten Year Timber Management Plan, or that for Josephine Sustained Yield Unit, Ten Year Timber Management Plan.

Management of the revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road grant lands is governed by statutory mandate. Section 1 of the Act of August 28, 1937, 43 U.S.C. § 1181a (1976), provides that the land:

[S]hall be managed * * * for permanent forest production, and the timber thereon shall be sold, cut, and removed in conformity with the principal of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities * * *.

The records in the timber sale case reflect careful consideration of the impact of the timber harvesting and supports a finding that it is consistent with the statutory mandate. Mitigating measures to protect against adverse impact to watershed have been implemented. To the extent that timber harvesting on a particular tract may be inconsistent with another use on that tract, such as recreation, it must be recognized that implementation of a mandate for management for multiple uses can only be achieved through the management of all public lands where uses which conflict are applied to those parcels

<u>2/ IBLA Docket Number</u>	<u>Intervenors</u>
81-855	Southern Oregon Timber Industries Association (SOTIA); Suntip Company
81-856	North West Timber Association (NWTa); SOTIA
81-857	Superior Timber Company; SOTIA
81-858	NWTa; SOTIA
81-886	Boise Cascade Corporation; SOTIA

to which they are most appropriate. See State of Utah v. Andrus, 468 F. Supp. 995, 1003 (D. Utah 1979).

[1] BLM's authority to manage Federal timberlands also derives from the Federal Land Policy and Management Act of 1976 (FLPMA), 3/ which is relevant to this case. A.C.O.T.S. refers to section 1 of the Act of August 28, 1937, 43 U.S.C. § 1181a (1976), pertaining to "Oregon and California Railroad and Coos Bay Wagon Road Grant Lands" (O&C Act), as though that Act imposes different or additional responsibilities on BLM. However, as we noted in A.C.O.T.S., 60 IBLA 1, 4 n.2 (1981), the section of the O&C Act concerned with timber management, 43 U.S.C. § 1181a (1976), is totally consistent with the relevant sections of FLPMA, and thus FLPMA is fully applicable in this case. 4/ This Board has consistently construed relevant provisions of FLPMA as granting BLM substantial discretion in the management of Federal timberlands. In A.C.O.T.S., supra at 5, we said that "so long as the BLM policy or implementing action is based on a consideration of all relevant factors and is supported by the record, we will not disturb it absent a clear showing that it is contrary to statute or regulation or otherwise erroneous. Ernest J. Goertzen, 51 IBLA 196, 197 (1980) * * *."

We have reviewed the record of each of these cases presently before us, and we find that BLM's decisions denying A.C.O.T.S.'s protests contain substantial responses to each contention made by A.C.O.T.S. In addition, BLM has filed answers to appellant's statement of reasons, which provide further evidence that BLM has carefully considered the factors deemed relevant by the appellant. A.C.O.T.S.'s arguments have not proven BLM's actions to be clearly erroneous in any respect.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed are affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

C. Randall Grant, Jr.
Administrative Judge

3/ See sections 301 and 302(a) of FLPMA, 43 U.S.C. §§ 1731, 1732(a) (1976).

4/ An uncodified section of FLPMA, section 701(b) of P.L. 94-579, 90 Stat. 2786, 43 U.S.C. § 1701 note (1976), states that any conflict or inconsistency between FLPMA and the O&C Act, insofar as they relate to timber management, shall be resolved in accordance with the latter.

